



THE INTERIM

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CENSUS DATA ON CHILDREN AVAILABLE BY LEGISLATIVE DISTRICT

The Annie E. Casey Foundation (www.aecf.org) has recently posted data on the well-being of children by state legislative districts for both upper and lower chambers. For the first time ever, data is available for all 7,000 state legislative districts in the nation. The State Legislative District data allows users to create customized data reports with user-friendly tools for any state legislative district or to rank all the legislative districts within a state on any number of dimensions of child and family well-being (<http://www.aecf.org/kidscount/census/>). Data is also available by congressional district, county, metropolitan areas, cities (not available for Montana), and American Indian reservations. All data is drawn from the 2000 U.S. census and covers profiles on such characteristics as demographic, economic, social, racial, age, education, disability status, and living arrangements.

The Annie E. Casey Foundation, established in 1948, provides financial support to the Montana Kids Count project based at the Bureau of Business and Economic Research in the School of Business Administration, University of Montana – Missoula (www.bber.umt.edu). If you have questions about accessing the census data, contact Daphne Herling, director of Development and Community Research, Montana Kids Count at daphne.herling@business.umt.edu.

ENVIRONMENTAL QUALITY COUNCIL

EQC Agency Oversight Subcommittee...Subcommittees of the Environmental Quality Council met in mid-September in conjunction with the full committee. At the EQC Agency Oversight subcommittee, the Department of Environmental Quality reported on the Holcim air quality permitting process, the status of the Mike Horse Mine Complex in the upper Blackfoot River valley, and the status of the state orphan share account.

DEQ also discussed the implementation of methamphetamine lab cleanup legislation enacted during the 2005 legislative session. House Bill 6, among other things, established standards for the cleanup of clandestine meth labs, set requirements that contractors must meet for cleaning up meth labs, and required property owners to provide notice that the property had been used as a meth lab if the property has not been cleaned up. The DEQ will post an electronic registry of known meth labs in the state (<http://www.deq.state.mt.us/Meth/index.asp>) and will establish a certification and training program for meth lab cleanup contractors.

The DEQ, the Department of Fish, Wildlife, and Parks, and the Department of Natural Resources and Conservation each provided reports on agency programs and budgets.

Subcommittee members adopted an interim work plan, which is on the EQC webpage. The next meeting is scheduled for Jan. 26 at the state Capitol.

For more information about the subcommittee or the Environmental Quality Council,

THE INTERIM

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THE INTERIM is a monthly newsletter that reports on the interim activities of legislative committees, including the Legislative Council, the Environmental Quality Council, the Legislative Finance Committee, the Legislative Audit Committee, and interim legislative committees and subcommittees staffed by the Legislative Services Division. Information about the committees, including meeting schedules, agendas, and reports, is found at <http://www.leg.state.mt.us>. Follow the "Committees" link or the "Interims" link to the relevant committee. The newsletter is posted on the legislative branch website on the first of each month (follow the "Publications" link).

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contact Todd Everts at (406) 444-3747 or teverts@mt.gov.

HB 790 subcommittee...It will take eight out of 12 votes for the EQC subcommittee studying oil and gas development to forward recommendations to the full EQC, members decided at their September meeting.

Sen. Mike Wheat, who chairs the panel, and Rep. Jim Peterson, who sponsored the legislation, both said the subcommittee should strive for consensus as it considers changes to laws governing oil and gas development. Absent a unanimous vote on proposals, they said requiring eight votes to recommend a measure would represent significant agreement. The panel was created by the passage of House Bill 790 during the last legislative session. The study bill won approval after proposed legislation related to split estates, reclamation, bonding, and coal bed methane failed. Among other things, the subcommittee is charged with studying surface use agreements for all mineral development as well as reclamation and bonding for coal bed methane operations.

At the meeting in Helena, landowners as well as industry representatives presented their perspectives regarding split estates. Representatives of the DNRC, DEQ, and Bureau of Land Management discussed oil and gas regulations.

After meeting Oct. 27 and 28 in Sheridan, WY, to hear testimony on coal bed methane and Wyoming's new split estate law, the subcommittee's next meeting is Jan. 26 in Helena at the Capitol.

Future meeting dates as well as research may be found on the EQC webpage. For more information, contact Joe Kolman, research analyst, at (406) 444-9280 or jkolman@mt.gov.

EQC Study Subcommittee...The EQC Study subcommittee began a detailed examination of how the administration of certain trust lands in the state is funded and reviewed the progress of work groups dealing with contract timber harvesting on state lands, fire-related statutes in Montana, and surface water and ground water.

Trust land administration: There are trust lands in Montana that were deeded to the state through various federal laws. In some cases, these laws limit how the proceeds from the trust can be used. Under current practice, the Department of Natural Resources and Conservation retains an administrative fee before depositing the revenue into the various trust funds as provided in the Montana Constitution. Provisions in the various federal laws that granted the property does provide some guidance on how that money may be used.

Since the early 1960s, the Legislature has directed the DNRC to keep a certain percentage of the revenue for the administration of the trust lands. The percentage amounts differ depending on the program and the level of administration that is required to administer the trust.

The issue before the subcommittee is whether it is appropriate for DNRC to continue to use a percentage of the

revenue received from the various trust lands as payment of its costs for the administration and management of the property. The subcommittee will evaluate on trust-by-trust basis the federal granting language and applicable constitutional and statutory provisions to make sure that they all work together and that the state isn't violating its fiduciary responsibility to the trustees.

Contract timber harvesting: A work group consisting of lawmakers, timber industry representatives, and environmental groups has met to discuss the process that would be followed if the state were to engage in contract timber harvesting on state trust lands. Tom Schultz, DNRC, gave an update to the subcommittee on these discussions.

Surface Water/Ground Water: The relationship of surface water and ground water has become more of an issue in the last few years. As demands for water are increasing, the connection or lack of a connection has been the point of many discussions in scientific and policy circles. A work group formed by DNRC will look at the scientific and policy aspects of the connectivity of surface water and ground water. The work group is meeting monthly and will be providing updates at each subcommittee meeting.

HJR 10 fire-suppression study...The work group formed to undertake the HJR 10 study of fire suppression and wildland fire statutes has been meeting monthly and reported on its progress to the Study subcommittee at its September meeting. At each meeting, the work group members are systematically reviewing and proposing updates and changes where appropriate to all of the sections of the Montana Code Annotated that address fire and fire suppression. These statutes appear in 36 different MCA titles. The sections containing the most substantive law where this study is concerned, however, are in Title 7 (Local Government), Title 10 (Military Affairs and Disaster and Emergency Services), Title 76 (Land Resources and Use), and Title 77 (State Lands). The work group has made progress recommending updates to the sections it has reviewed to date and subcommittee staff will prepare a bill draft incorporating those changes.

Statute review is not all the group is considering, however. Additional discussion has centered around overlapping fire protection jurisdictions and the need for clear statutory delineation of responsibilities for state and local governments, as well as establishment in statute of a state fire policy.

The group also plans to examine wildland-urban interface codes and some members may want to recommend to the subcommittee a set of codes that local governments could adopt and enforce through subdivision regulation. This subject promises to elicit varying opinions, given the diversity of the work group members. If a consensus cannot be reached, the divergent views will be brought to the subcommittee for a decision at a future meeting.

The work group will meet next on Nov. 16. For more

information about the HJR 10 study or the work group, contact Leanne Kurtz, study staff, at (406) 444-3593 or lekurtz@mt.gov.

Next meeting in January...The next meeting of the Study subcommittee will be Jan. 26 at the state Capitol. For more information about the subcommittee, contact Krista Lee Evans, subcommittee staff, at (406) 444-1640 or kevens@mt.gov.

REVENUE AND TRANSPORTATION COMMITTEE

State general fund on the upswing...Terry Johnson, principal analyst for the Legislative Fiscal Division, told the Revenue and Transportation Interim Committee that the state's general fund ending balance for fiscal year 2005 is \$135 million higher than the \$162 million estimated by the Legislature last session. The most significant factor affecting the general fund balance was higher than estimated revenue collections, about \$133.3 million higher than estimated in House Joint Resolution 2. Collections from individual income taxes and corporation license taxes were \$123.4 million higher than estimated and accounted for almost 93 percent of the increased revenue. Other factors affecting the general fund balance included prior year revenue adjustments (-\$2.1 million) and net reversions (disbursements less than budgeted amounts plus prior year expenditure adjustments) of \$5.4 million. For additional coverage of the status of the general fund for the 2007 biennium, see related article (p. 10) under the Legislative Finance Committee.

Revised revenue estimates...If a special session is called to revise public school funding, the committee intends to revise the estimates of certain revenue sources in HJR 2. Based on a recommendation from Johnson, the committee will revise the estimates for individual income taxes, corporation license taxes, oil and natural gas productions taxes, and property taxes.

Committee adopts study plans...The committee tentatively adopted the study plan for House Joint Resolution 43, a study of the classification, valuation, and taxation of agricultural land, and HJR 44, a study of the assessment and property taxation of oil and natural gas property. The study plans are available on the committee's webpage.

PPL Montana highlights property tax disputes with Department of Revenue...Unless you've been living in another solar system during the last several years, you know that PPL Montana has disputed the Department of Revenue's valuation of its electrical generation facilities for property taxes since it acquired the assets from the former Montana Power Co. Dave Hoffman, representing PPL Montana, told the committee that the relative valuation of PPL Montana's facilities increased from 30 percent of all centrally assessed generation facilities in the state in 1999 (under

MPC ownership) to 44 percent in 2000. He also said that the valuation of its Colstrip facilities is significantly higher than the taxpayer who owns the other 50 percent of those units and that the total assessed value of its hydro facilities is slightly more than 5 times greater than a hydro facility with similar generation capacity. The major areas of dispute include unequal valuation when compared with taxpayers that own similar types of property and the valuation of its generation facilities as a single operating unit rather than as individual units. Earlier this year, the Montana State Tax Appeal Board ruled on PPL Montana's property tax protest for tax years 2000-2002 (see the July 2005 issue of *The Interim* for prior coverage).

Department of Revenue unveils revised income tax form...Expect a more taxpayer-friendly income tax form when you file your tax return next year. This according to Dan Bucks, director, Department of Revenue, who provided the committee with a mockup of the new form. Some of the improvements, according to Bucks, include easy to understand instructions, conformity with the federal tax return in determining federal adjusted gross income, and expanded forms to reflect all provisions of Montana's income tax law. On the old form, a taxpayer might overlook deductions and exclusions to which the taxpayer is entitled because they were combined on one line. There will be 45 additional entries, 32 of which may be used to reduce taxes, Bucks said.

Other Department of Revenue Reports...Bucks provided a progress report on the Integrated Revenue Information System. IRIS replaced the controversial POINTS computer system as directed by the Legislature in 2003. Bucks said that the new system is on schedule, on budget, and it works. Under phase two, the department has added the corporation license tax and the individual income tax, while liquor taxes and water adjudication fees will be on the system by the end of next January. The last phase of the project should be completed by the time the Legislature convenes in 2007. With the new system, the department will begin sending monthly delinquent tax notices to taxpayers. Bucks said taxpayers who receive a notice should call (406) 444-6900 if they have any questions.

- Bucks also reported on:
 - income tax compliance studies, audit collections, and illegal tax shelter cases (the committee will review these topics during the course of the interim);
 - state employee cross-match with the individual income tax system;
 - recent embezzlement charges against an employee of the Department of Revenue;
 - two U.S. Supreme Court decisions allowing the direct shipment of wine;
 - Montana District Court decision that the prohibition

of nonresident ownership of retail alcoholic beverage licenses in the state violated the commerce clause of the U.S. Constitution; and

- tobacco and alcohol tax revenue sharing agreements with the Blackfeet Nation.

New funding acronym, more transportation money for Montana...In late July, Congress finally approved a federal funding reauthorization measure for highway construction and other transportation-related projects. The bill, dubbed SAFETEA (if you're really interested in the full title, "google" the acronym), is a \$286 billion funding package that authorizes \$2.3 billion for Montana over the next 6 years. Jim Lynch, director, Montana Department of Transportation, told the committee that Montana's share represents a 44 percent increase over TEA-21. The state will also receive money for specific projects, including a feasibility study for a four-lane highway from Glasgow to the North Dakota border. Lynch also told the committee that repair of the Beartooth Highway, damaged by mudslides last spring, will be completed ahead of schedule and underbudget.

Committee endorses state-tribal gas tax agreement...Title 18, chapter 11, MCA, allows state and local governments to enter into cooperative agreements, including tax revenue sharing agreements, with tribal governments. The purpose of revenue sharing agreements is to prevent dual taxation of the same activity. The state has renegotiated an existing gasoline tax revenue sharing agreement with the Blackfeet Tribe. The new agreement runs through June 30, 2015, and revises the distribution of gas tax revenue to the tribe based on prior fiscal year taxes collected per capita. The new formula results in a little over \$21,000 increase in revenue for the Blackfeet Tribe this year.

Section 15-70-234, MCA, requires that the Department of Transportation present gasoline tax revenue sharing agreements to the Revenue and Transportation Committee for review and comment before the agreement is given to the attorney general for final approval. Jim Lynch, director, MDT, summarized the provisions of the agreement. Although official action by the committee is not required, the committee voted, with one member voting no, to endorse the agreement.

Committee scheduled to meet in December...The committee is scheduled to meet Dec. 1 and 2 in Room 137 of the state Capitol. The committee may revise the revenue estimates for a special session on school funding. The agenda for the meeting will be available by mid-November.

The loop is still open...Interested parties are reminded that they can sign up for electronic notification of committee meetings, agendas, minutes, staff reports, and other information by going to the committee's webpage and following the link to the email subscription page. As always,

hard copies of meeting agendas will be mailed to people who prefer that method.

Beginning with the September meeting, audio minutes and exhibits of each meeting will be available electronically.

For more information about the committee, please contact Jeff Martin, committee staff, at (406) 444-3595 or jmartin@mt.gov or Dawn Field, committee secretary, at (406) 444-3073 or dfield@mt.gov. Lee Heiman is the staff attorney and can be reached at (406) 444-4022 or lheiman@mt.gov.

LEGISLATIVE COUNCIL

The Legislative Council convened for a business meeting and a planning session on Sept. 22 and 23. During the business meeting on Sept. 22, members took the following action:

- allocated an additional \$31,000 to the Quality Schools Interim Committee to allow the committee to complete its work on school funding;
- approved prices for the annotations for the 2005 Montana Code Annotated;
- reappointed Joseph Mazurek, Edwin Eck, and James Nelson as the Montana members of the Commission on Uniform State laws;
- approved the Legislative Council rules of procedure for this interim;
- designated the State-Tribal Relations Committee as the appropriate interim committee to provide a report to the 2007 Legislature on the review and implementation of secured transaction commercial codes by tribal governments and the implementation of the training for tribal courts; and
- approved depositing \$186,325 from the 2003 feed bill reversion into the legislative branch information technology reserve account for funding major IT projects.

During the planning session on Sept. 23, council members and Legislative Service Division managers participated in a series of small and large group exercises to identify issues to pursue during this interim and beyond. Some of the issues identified included public outreach, interim committee membership and structure, fiscal note preparation, funding for legislator participation in interstate activities, technological improvements, and legislator training.

Next meeting in January...The council's next meeting is tentatively scheduled for Friday, January 20, 2006. For

more information about the Legislative Council, call Lois Menzies at (406) 444-3066 or send an e-mail message to lomenzies@state.mt.us.

ECONOMIC AFFAIRS COMMITTEE

Identity theft and state and federal laws...The implications of identity theft on consumers, credit card companies, and credit bureaus highlighted an overview of identity theft at the Oct. 28 meeting of the Economic Affairs Interim Committee. Local insurance companies, small businesses, and other interested parties also raised their concerns about how--or whether--to enhance prevention and mediation options in legislation, building on passage of House Bill 732 in the last session. The committee is studying identity theft under Senate Joint Resolution 38. More information about the study will be in the December issue of *The Interim*.

Work Comp Concerns and Retroactivity... Former workers' compensation judge Mike McCarter provided the committee with an overview of cases that have the potential to trigger large, retroactive workers' compensation payments for the state and others. Jim Shea, appointed as the workers' compensation judge this summer, will be taking time to become familiar with the cases, which means that effects, if any, on the State Fund and the state-backed Old Fund--and other insurers--will be down the road. Shea will update the committee at its next meeting. More information on McCarter's presentation will be in the December issue of *The Interim* along with reports on the following agenda items:

- update from the Department of Labor and Industry on various issues, including the U.S. Department of Labor's acceptance of the state's modification request for a single state planning area under the Workforce Investment Act;
- update on SJR 35, a study of occupational and professional licensing boards; and
- review and discussion of next steps regarding implementation of the Montana Equity Capital Investment Act, created by SB 133.

For more information about the Economic Affairs Committee or either of the studies being conducted by the committee, visit the committee webpage or contact Pat Murdo, committee staff, at (406) 444-3594 or pmurdo@mt.gov.

ENERGY AND TELECOMMUNICATIONS COMMITTEE

Committee meets in September...The Energy and Telecommunications Interim Committee met Sept. 22 in Helena. It was one of the busier meetings that the committee will hold this interim. Topics covered and actions taken were:

- The committee reviewed and approved the study plan for the Senate Joint Resolution 36 study of distributed energy generation and the study plan for the SJR 39 study of the feasibility of a statewide energy planning and coordinating entity. The committee also approved its work plan for the interim.
- Representatives of NorthWestern Energy and the Bonneville Power Administration reviewed the status of electrical transmission.
- Representatives involved in the governor's energy symposium in Bozeman discussed the proposed agenda, including coal gasification and liquefaction and the future of the coal tracts at Otter Creek.
- Representatives of the Montana university system presented information on the various aspects of energy development that the different campuses are involved in.
- The Public Service Commission provided an agency update.
- Committee staff discussed issues related to the House Joint Resolution 45 study of funding mechanisms and allocations for deployment of a statewide wireless enhanced 9-1-1 emergency telephone system (this study was not assigned to an interim committee) and House Bill 539 revision of telecommunications laws (this bill died in a standing committee). Staff also presented information on Great Plains Wind & Energy as well as the Montana-Alberta Tie, Ltd.

Revised meeting schedule, committee to meet Nov. 21 and 22...The committee has revised its interim schedule by adding a meeting to coincide with the anticipated special session, dropping the meeting it had scheduled for January, and adding an extra day to its scheduled meeting in March.

Because several committee members cannot meet on Nov. 17, that meeting has been rescheduled for Nov. 22. In conjunction with this change, the evening public forum for discussion of distributed energy generation has been moved from Nov. 16 to Nov. 21.

For more information about the Energy and Telecommunications Committee, contact Casey Barrs, committee staff, at (406) 444-3957 or cbarrs@mt.gov.

EDUCATION AND LOCAL GOVERNMENT COMMITTEE

The Education and Local Government Committee's two subcommittees, the Local Government subcommittee and the Postsecondary Education Policy and Budget subcommittee, met Oct. 6, independent of the full committee.

Local Government subcommittee adopts work plan...The Local Government subcommittee adopted a work plan that includes four more meetings through August 2006 and the review, at varying levels of detail, of the following items:

- transportation in cities, including allocation of fuel tax revenue at the local level, local control of street design and project management when the street is part of the state highway system, allocation of Community Transportation Enhancement Program funds, 2005 changes to local option fuel tax laws, and implications of the federal transportation funding bill on local governments;
- changes to the business equipment property tax enacted by the 2005 Legislature, specifically the provisions of Senate Bill 48 that increased the cap on the exempt aggregate market value of class eight property from \$5,000 to \$20,000;
- impact fees on development authorized by the 2005 Legislature in SB 185;
- how changes to subdivision review brought about by SB 116 and SB 290 are being implemented and handled by local governments;
- the Montana Main Street program, created by HB 481 and housed in the Department of Commerce (see this issue's **Back Page** article for information about the Main Street program);
- proposals for standardizing penalties for violating zoning laws; and
- work being done by other interim committees that may affect local governments, specifically the Law and Justice Committee's study of services provided by county attorneys and the Environmental Quality Council's study of wildland fire statutes.

Federal eminent domain ruling not likely to affect Montanans...Greg Petesch, legal director, Legislative Services Division, offered his take on how *Kelo v. City of New London* may affect local governments and property owners in Montana. In *Kelo*, the U.S. Supreme Court ruled that local governments may force property owners to sell their property to make way for private economic development when it is determined that the public would benefit, even if the property is not blighted and the success of the private endeavor is not guaranteed. Petesch said Montanans need not fear significant effects or imperious

federal influence over eminent domain proceedings as a result of the decision because the meaning of "public use" is deferred to state governments. Further, the Montana Supreme Court has ruled that determination of what is a "public use" is within the purview of the Legislature. Section 70-30-102, MCA, enumerates what the Montana Legislature considers "public use" for which the right of eminent domain may be exercised.

Planning offices overwhelmed...The subcommittee also heard how local governments are implementing SB 116, which revised the Montana Subdivision and Platting Act, specifically hearing concern that many local planning offices are so overwhelmed with reviewing the influx of subdivision applications that they don't have time to work on revising their subdivision regulations, something the enactment of SB 116 made necessary. The subcommittee plans to continue discussing ways the Legislature might assist the staff in city and county planning offices with their increasing workloads. Members requested legislative staff to compile information about local planning offices (how they are staffed, how they are funded, what kinds of fees they charge, what their work consists of, etc.) for the December meeting.

SJR 11 subdivision review...Members of the group formed to work on the Senate Joint Resolution 11 study of subdivision review updated the subcommittee on their progress and areas in which the members remain at odds. The group is attempting to finalize principles that will form the basis of any legislation its members intend to propose to the subcommittee. These principles center around the necessity of sound growth planning, how that planning can occur, and what tools local governments should be encouraged to use to implement growth policies. Subcommittee members requested monthly reports on the group's discussions.

PEPB subcommittee holds first meeting, adopts work plan...On Oct. 6, the Postsecondary Education Policy and Budget subcommittee held the first of five scheduled meetings and agreed to a series of work plan projects for the interim. The subcommittee elected Rep. Kathleen Galvin-Halcro as chair and Sen. Bob Story as vice chair. PEPB is a joint subcommittee that includes two members from the Montana Board of Regents (Regents Mark Semmens and Mike Foster), with ex-officio members from the executive branch and the Office of the Commissioner of Higher Education.

The subcommittee unanimously adopted the following six projects to be completed during the interim (note that items 3-5 are expected to entail informational reports only):

- (1) Policy Goals and Accountability Measures adopted by PEPB and the Board of Regents over the last two interims:
 - review the existing goals and measures and consider updates or additions;
 - develop benchmarks and performance guidelines (as needed in order to create measurable budget drivers) to evaluate progress toward these

- measures
- renew agreement with the Board of Regents on the content of the accountability measures; and
- investigate converting these measures to budget formula drivers (for new proposals in the 2009 biennium).

(2) Review current state funding formulas used to establish the Montana university system budget:

- state share of the cost of education drives present law adjustment funding;
- marginal cost per student formula drives funding for enrollment increases; and
- cost of education at the community colleges and university units.

(The review under this project will include looking at funding formulas for higher education used in other states. The review may lead to a recommendation for a new funding scheme for the Montana university system.)

(3) Monitor the progress and funding results of Shared Leadership Initiatives (including matching funds).

(4) Monitor the implementation of the governor's new Postsecondary Education Scholarship Program.

(5) Participate in the Board of Regent review of and changes to the allocation method used by the regents for funding the various units of the university system.

(6) Monitor 2009 biennium budget requests and any proposed legislation

Committee and subcommittees to meet in December...The Local Government subcommittee and the PEPB subcommittee will meet Dec. 1, and the full Education and Local Government Committee will meet Dec. 2.

For more information about the Local Government subcommittee's work plan, meeting dates, or future agendas, visit its webpage by clicking on the "Subcommittees" link on the Education and Local Government's main page or contact Leanne Kurtz, Local Government subcommittee staff and staff to the Education and Local Government committee, at (406) 444-3593 or lekurtz@mt.gov.

For more information about the PEPB subcommittee, contact Alan Peura, subcommittee staff, Legislative Fiscal Division, at (406) 444-5387 or apeura@mt.gov.

QUALITY SCHOOLS COMMITTEE

Committee meeting weekly...The Quality Schools Interim Committee has met weekly since the first of September to design a new school funding formula for Montana's public schools. The October issue of *The Interim* reported that the committee was working on formulas for eight new statewide entitlements: per student, classroom,

accredited program, operations and maintenance, special education, transportation, capital projects, and debt service. Since that time, the committee has been defining and building those entitlements. To date, the committee has:

- directed staff to base these entitlements on known expenditure data for fiscal year 2004. Each entitlement contains a method for counting units (e.g., per-student, per-classroom, per-district) and a cost per unit based on FY 2004 expenditures inflated to FY 2007.
- recommended no changes to the current transportation funding structure, the special education funding structure, or the debt service funding structure;
- recommended that the capital projects entitlement include \$23 million in one-time money from the state general fund for deferred maintenance and energy efficiency and \$2 million for a study to assess the long term capital needs of school districts;
- adopted a base level amount for the classroom entitlement and has adjusted the entitlement by:
 - an increase in the salary component of \$4,000 per classroom;
 - a guarantee level for health insurance of \$7,015 per classroom;
 - a guarantee level of \$800 for professional development per classroom;
 - funding for paraprofessionals and substitute teachers; and
 - weighting factors for ANB for gifted and talented and at-risk student-teacher ratios;
- recommended funding for Indian Education for All in the following amounts:
 - \$3 million ongoing funding for general implementation; and
 - \$7 million in one-time money for the purchase of materials and/or professional development; and
- adopted base level amounts for the per student entitlement, the accredited program entitlement, and the operations and maintenance entitlement with the intent to adjust the amounts based on options developed by staff.

Committee looks at new health insurance proposal...At the Oct. 11 meeting, David Ewer, the governor's budget director and a nonvoting member of the committee, responded to a previous request from the committee to look at including school personnel in the state employees' health insurance plan. Ewer said that including school personnel was a possibility. Participation by all school districts would have to be mandatory and the state would continue to control the plan design. The committee and

members of the public expressed interest in pursuing this option for providing health insurance to school personnel, and the staff was asked to explore the issue further.

Committee continues to meet...The committee met the last two weeks in October. Coverage of those meetings will be included in the December newsletter. For more information about the committee, contact Connie Erickson at (406) 444-3078 or cerickson@mt.gov.

STATE ADMINISTRATION AND VETERANS' AFFAIRS COMMITTEE

Study continues on public retirement systems...on Oct. 6, the State Administration and Veterans' Affairs Committee received additional briefings on public retirement funding from David Senn, executive director of the Teachers' Retirement System, Mike O'Connor, executive director, Public Employees Retirement Administration; and Carroll South, executive director, Montana Board of Investments. The PERS Board and the TRS Board had each commissioned an actuarial review of the retirement plans within their respective purviews. As indicated to the Legislature during the 2005 session and to the committee members in September, the actuarial soundness, as of July 1, 2005, has declined further for each of the four retirement systems being studied under House Joint Resolution 42 --the Public Employees Retirement System, the Game Wardens' and Peace Officers' Retirement System, the Sheriffs' Retirement System, and the Teachers' Retirement System. The primary cause of the decline in each case was related to the declines in the financial markets during the 2000 through 2003 period. These declines are phased-in to the actuarial calculations over a 4-year period (a 5-year period for the TRS). Each of the presenters emphasized that the actuarial problems identified in HJR 42 need to be resolved as soon as possible if more serious problems are to be avoided.

Committee requests bill draft to increase employer contributions...Carroll South, speaking on behalf of the Board of Investments and on behalf of David Ewer, director of the governor's budget office, told the committee that the governor is prepared to allocate approximately \$100 million of the excess general fund balance to mitigate the actuarial imbalances in the four retirement systems.

While \$100 million is a significant amount of money, Senn, O'Connor, and South agreed that it will fall far short of the amount needed to make the four systems actuarially sound immediately. Therefore, the Legislature will still need to increase the employers' rates of contributions to the systems in order to bring the systems into compliance with constitutional requirements. Because the amount of increase in the employers' rates will be smaller the sooner the rates are increased, the committee asked staff to prepare draft legislation increasing the rates for consideration at the committee's Nov. 4 meeting. If the committee reaches

agreement on the draft legislation, the goal is to have a final draft of the recommendation ready for final consideration by the committee at its Nov. 28 meeting and, subsequently, for introduction at a special legislative session if one is called.

Committee requests bill draft for review of retirement proposals...The committee also directed staff to prepare draft legislation that would require expanded legislative review of legislation related to public employee retirement issues. The committee's objective in considering increased legislative review of retirement-related legislation is to ensure that sound principles of pension planning and management are established and followed by the Legislature, and that the interests of public employees and public employment retirees are balanced with the interests of other public policy stakeholders, including taxpayers.

Once drafted, the proposed legislation will be posted to the committee's webpage.

Committee to consider changes to administrative procedure law...Committee staff examined the procedures for adopting administrative rules issues related to the implementation of Senate Bill 370 (Ch. 259, L. 2005), which allows some public employees who are members of PERS to transfer their individual membership into SRS. Based on that examination, the committee voted to have staff prepare draft legislation that would, among other things, clarify various provisions of the Montana Administrative Procedure Act and establish penalties for certain violations of the Act. The Committee will consider the draft legislation at a future meeting; the draft legislation will also be posted to the committee's webpage as soon as it has been drafted.

Committee meets twice in November...The committee will meet on Friday, Nov. 4 in Room 102 of the Capitol. The meeting will again be devoted primarily to the HJR 42 study of state retirement systems, including information requested by the committee and draft legislation related to the retirement systems. The committee's final meeting on HJR 42 is scheduled for Nov. 28, also in Room 102 of the Capitol.

The public is invited to attend the meetings and written comments are appreciated. Additional details of the Nov. 4 and 28 meeting agendas will be posted to the committee's webpage as soon as possible. You can also contact Dave Bohyer at (406) 444-3064 or dbohyer@mt.gov.

LEGISLATIVE FINANCE COMMITTEE

LFC October Meeting...The Legislative Finance Committee met on Oct. 6 and 7. The committee heard reports on various policy issues and fiscal concerns. The agenda and reports are available on the Legislative Fiscal Division webpage at <http://www.leg.mt.gov/css/fiscal/default.asp>. For more information about the committee, contact Clayton Schenck at cschenck@mt.gov or (406) 444-

2986.

AG opinion on expenditure limitation law...Greg Petesch, legal director, Legislative Service Division, discussed the recent attorney general's opinion that "the 1981 legislature placed no enforceable limits on the spending power of a subsequent legislature". Although he did not totally agree with the attorney general's arguments, Petesch suggested that the Legislature could change the expenditure limit law each session to make it apply to the then-current Legislature or repeal it altogether. An LFC subcommittee that had been previously put together to review the spending cap law to make it more workable was disbanded. In addition, the committee asked that a list of concerns related to the workability of the current statute be placed on the LFD webpage. It can be found under the reports compiled for this meeting with the title of "Problems Experienced in Calculating the Expenditure Limitation".

Department of Public Health and Human Services Updates...The LFC appointed Sen. Mike Cooney to be the contact for staff information regarding CHIP contract negotiations with Blue Cross Blue Shield of Montana. The committee also appointed a work group to review the recently released 1115 Medicaid (HIFA) waiver authorized by SB 110 during the 2005 legislative session. Sens. John Cobb and Carol Williams and Reps. Rosie Buzzas and Ray Hawk were appointed to the work group.

In addition, the committee reviewed Department of Public Health and Human Services reports on activities, with language in HB 2 either requiring a report to the legislature or in other ways conditioning the appropriation support of such activities. These reports are on the LFD website. A summary of each of these reports for DPHHS follows:

Continued implementation of the Medicare Modernization Act

- Agency has undertaken numerous activities to prepare for the new Medicare drug benefit (Part D) that will be implemented January 1, 2006
- Persons who are eligible for both Medicaid and Medicare will receive drug coverage through Medicare rather than Medicaid
- Agency will have to process eligibility for the low-income subsidy for drug coverage for persons who request it
- Some staff questions were inadvertently not answered in time for LFC consideration, including the projections of the "clawback" payment, the payment that the state is required to make to the federal government for the anticipated Medicaid savings due to Medicare absorbing Medicaid drug costs

Direct care worker wage increase for senior and long term care and state veterans' nursing homes

- Nursing home and community care wage increases
 - The agency implemented the direct care worker wage increase funded by the legislature for senior and long-term care services
 - Direct care workers were defined as certified nurse aides, licensed practical nurses, and registered nurses
 - The lion's share of the appropriation for wage increases went to nursing homes
 - The wage increase was distributed to Medicaid contractors through an increase in the daily rate (about \$5 per day per client for nursing homes)
 - The agency will audit providers to determine whether wage increases were implemented
- Veterans' home wage increases
 - The agency increased direct care worker wages at the Montana Veterans' Home by moving to broadband pay for several positions

Additional staff for Passport to Health (primary care provider program)

- The staff was added and have completed several tasks, including meeting with providers to determine what types of improvements they would recommend

Expanding Nurse First contract

- DPHHS has scheduled a talk with the contractor to determine if adding CHIP to the contract would result in cost savings

Contract for review and approval of out of state hospital admissions

- The contract is in place, but it is too early to evaluate the outcomes, including cost savings or better health outcomes

Funding for 5 new FTE for adult mental health services, with an emphasis on development of community mental health crisis services

- Agency had advertised the positions, but had not yet interviewed candidates, as of the date of the LFC meeting

Rate increases for psychiatric services

- A psychiatric rate increase of 20 percent, effective Oct. 1, was retroactively granted to July 1, 2005
- Agency will evaluate whether higher reimbursement increases access to psychiatric services for low-income persons with a serious and disabling mental illness

New Program for Assertive Community Treatment for mental health services

- All three new PACT teams are up and running and accepting admissions (Missoula, Great Falls, and Kalispell)

- The two existing teams in Helena and Billings are expanding

Implementation of Medical Marijuana Act

- The act has been implemented and the registry has operated for about a year
 - The registration fee will be reduced because the program is costing less than anticipated to operate
- Recording certain types of expenditures made by non-state entities as operating costs
- DPHHS and the Department of Administration are continuing to work on this issue to provide better transparency and consistency in the recording and reporting of state expenditures by type of expenditure

For additional information, contact Lois Steinbeck at lsteinbeck@mt.gov or (406) 444-5391.

DPHHS Foster Care and Developmental Disabilities Provider Rate Increases...The committee was briefed on actions taken by DPHHS in implementing provider rate increases for family foster care and developmental disabilities services. The Legislature appropriated funding for family foster care based on an estimate that excluded a couple of groups of providers. Rate increases have not been provided to those two groups. Providers of regular and kinship family foster care have received the 4 percent provider rate increase. For the developmental disabilities service providers, the department's allocations of funds have continued some inequities among providers that will have to be corrected later. In addition, staff raised a concern about how a service provider might apply the rate increase, whether to direct wage increases or to benefits costs such as workers' compensation premium increases. For more information contact Pat Gervais at pagervais@mt.gov or (406) 444-2986.

Department of Corrections Update of Prison Populations Projections...Committee staff presented a report on the secure care population within the state correctional system. The Department of Corrections now estimates that the adult offender population for FY 2006 and FY 2007 will be 3 and 4 percent, respectively, greater than the average daily population estimate supported by the 2007 biennium budget. The department has several actions in progress or under consideration to address this larger than estimated population, including opening of a "sanction" unit on the Warm Springs campus, development of meth treatment facilities, expansion of pre-release beds, temporarily housing some prisoners outside of Montana, and the addition of beds to the private prison. Some of these actions may not be consistent with actions supported by the Legislature and incorporated in the 2007 biennium budget. For further information contact Pat Gervais.

Marketing and business recruiting program report...The committee discussed a required HB 2 report on goals and objectives received from the governor's Marketing

and Business Recruiting Program and concluded that there was apparently a misunderstanding as to what the Legislature requested. The committee is asking that the requested program goals and objectives be more expressive of outcomes expected as a result of program activities and expenditures.

Federal highway funding act of 2005...Staff presented a report that highlighted the funding Montana stands to receive following reauthorization of federal-aid for highways. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, or SAFETEA-LU, would provide Montana \$1.9 billion, taking into account historical obligation limitations, in federal-aid funding through federal fiscal year 2009. Of this amount, \$395.3 million is earmarked for special projects and purposes and \$56 million is for grants to local transit operators. Funding for core programs of the Montana Department of Transportation would average \$329 million a year after takedowns and obligation limitations are considered and would result in a \$78 million or 31 percent average annual growth. The increased funding doesn't come without some long-term concerns for the adequacy of both the federal and state highway funding accounts. Revenue deposited into the federal highway trust account has not been keeping up with expenditures, leading to a decline of the account that funds the federal aid. A decline in the condition of the federal highway trust fund could affect future federal-aid funding for Montana and place increased pressure on the highways state special revenue account that is used for federal-aid match and for other highway construction, maintenance, and operating expenses. For more information, contact Greg DeWitt at gdewitt@mt.gov or (406) 444-5392.

General fund status: 2007 biennium ending fund balance...Based on current information, the general fund account will end the 2007 biennium with a balance of \$204.6 million, or \$128.6 million more than expected. This projected ending fund balance is based on revenue estimates contained in HJR 2 plus actual receipts for FY 2005. The revised fund balance does not take into account revenue trends observed during FY 2005 or potential increased costs related to changes in public school funding or offsetting unfunded liabilities in state retirement accounts. The Legislative Fiscal Division is doing a detailed analysis of all revenue trends and the implications for the current biennium. This analysis will be the basis for LFD's revenue estimate recommendations to the Revenue and Transportation Interim Committee in December. In the fund balance analysis, 2007 biennium estimated revenues are below the budgeted disbursements. This indicates that the general fund account is "structurally unbalanced" for the 2007 biennium. However, the disbursements for the 2007 biennium include one-time disbursement of \$86.3 million. If these disbursements are not to be funded in subsequent biennia, the next Legislature should be able to develop a 2009 biennium budget that is driven by the estimated growth in revenues for the biennium. However, if the Legislature uses the FY 2005 excess fund balance for ongoing expenditures, a structural "imbalance"

will occur in subsequent years. For additional information, contact Terry Johnson at tjohnson@mt.gov or (406) 444-2952.

Revenue estimates for special session...The Revenue and Transportation Interim Committee is planning on drafting a revised revenue estimating resolution for a possible December special session. The revised estimates will be based on the assumptions and revenue estimates contained in the current HJR 2. However, because a majority of the FY 2005 change in collections versus the revenue estimates was due to individual income taxes, corporation income taxes, and oil and natural gas production taxes, the RTIC will limit its review and potential adjustments to only the economic assumptions and the associated revenue estimates for these three sources. As done in the past, however, if an adjustment is adopted for oil and natural gas price and production levels, LFD staff will be directed to calculate the associated impact on US mineral royalties and common school interest and income revenue. The one exception to the above procedure is for property taxes. The committee will also review the assumptions related to property taxes because taxable values of property classes are essential in the development of a new public school funding formula. The remaining general fund revenue assumptions and estimates will be as currently shown in HJR 2. The new resolution will be introduced at the beginning of the special legislative session. For additional information, contact Terry Johnson.

School funding study: update on interim activities and issues facing the Legislature in a special session...Staff reported that the Quality Schools Interim Committee has done a tremendous amount of work since the end of the 2005 legislative session, and that it has a tremendous amount of work yet to do. If a new school funding formula is to be implemented in FY 2007, the school funding committee must complete its analysis by Nov. 1 and prepare draft legislation in time for a possible special session in December. This will be extremely difficult.

If a new funding formula is enacted for implementation in FY 2008, the urgency is reduced. However, there will still be issues regarding timing even if the Legislature does not change funding for FY 2007. If the Legislature decides to implement the new funding formula for FY 2008 and enhance spending on K-12 for FY 2007, the Legislature may face two special sessions, or only one if both are enacted into law at the same time before March 1, 2006.

The LFC also heard a presentation on the factors that relate to the entitlements being considered as part of the school funding formula. The presentation was titled "A Proposed Mechanism for Funding Montana Schools", and can be found on the legislative branch webpage by following the "Committees" link to the Quality Schools Committee.

For more information, contact Jim Standaert at jstandaert@mt.gov or at (406) 444-5389.

Unfunded liabilities in state retirement

plans...Although unfunded liabilities in retirement plans are not unusual, there are four state plans that have significant unfunded actuarial liabilities (UAL) that cannot be amortized within a 30-year period, as required by state law. This means that the four plans violate the constitutional requirement that the plans be actuarially sound. The total unfunded liability of the four plans is \$1.46 billion, based upon recently updated actuarial valuations (as of June 30, 2005). Solutions must reduce the total UAL by about \$725 million in order to bring the plans into compliance. On the drawing board are ideas for a cash infusion from the general fund balance and increased employer contributions, including state and local governments and school districts. The State Administration and Veterans' Affairs Interim Committee is working on legislation for a special session to deal with this problem.

For more information contact Jon Moe at jonmoe@mt.gov or at (406) 444-4581.

Budget amendment for funding oversight in new bentonite tax law...The committee reviewed a number of budget amendments approved by Gov. Schweitzer, including an allocation of state special revenue to Carter and Carbon counties derived from the collection of bentonite taxes. During the last session, the Legislature enacted Senate Bill 276 to revise the taxation of bentonite mines. However, the measure did not include an appropriation for the counties' share of the tax. The purpose of the budget amendment is deal with that oversight. However, authority to expend state special revenue through a budget amendment (with limited exceptions) can only be made in the event of an emergency. While the committee recognized the rationale for the budget amendment, it voted to inform the governor that the committee did not think that the amendment met the statutory requirement. The committee also voted to ask that the governor include a statutory solution to the funding oversight as part of the next legislative session (including any special session). For more information, contact Taryn Purdy at tpurdy@mt.us or (406) 444-5383.

Energy price increases: impacts on state agency budgets...Committee staff presented a report on the potential effects of high natural gas prices on state agency expenditures. In anticipation of higher energy costs, the Legislature provided an inflationary increase of 18 percent in FY 2006 and 12 percent in FY 2007 over the FY 2004 level. Although it is too early to know whether the appropriation is sufficient to cover costs in the coming months, expenditures are trending significantly higher than FY 2004, and outpacing the inflation factor built into the FY 2006 appropriation. While state government is feeling the effects of higher natural gas prices, the impact could have been more severe. Many of the largest users of natural gas, including the Montana university system (and several large school districts) are under contract for the next two years that guarantees a commodity price well below current high market levels. For approximately 10 to 15 percent of the university system and about half of the rest of state government, costs are "on the meter" and consequently higher. The committee requested a follow-up report in December. For more information, contact Taryn

Purdy.

Staff also presented a report that highlighted the impacts of higher motor fuel prices on agency budgets. Motor fuels, such as gasoline and diesel, are about 46 percent higher than the prices that existed when agency budgets were developed. Projections by the U.S. Department of Energy are that gasoline prices would settle below \$2.50 a gallon near the beginning of 2006, or 22 percent higher than when 2007 biennium budgets were developed. Since inflation adjustments were not included in motor fuel budgets, agencies are underfunded for the higher motor fuel prices that are expected to continue through the remainder of the biennium. The governor has directed state agencies to take actions to contain costs, but the impacts on agency operations have not been fully evaluated. The motor fuel issue will be a topic for future updates to the committee.

For more information, contact Greg DeWitt at gdewitt@mt.gov or (406) 444-5392.

Wildfire suppression costs update...The 2005 summer fire season was declared over on Sept. 30. For the calendar year, 241 fires burned 16,439 acres. Of these fires, 15 were assistance to counties for a total of 13,759 acres. The remaining 226 fires were direct protection fires for a total of 2,680 acres. Only five direct protection fires burned over ten acres. The initial attack success rate, or the percentage of fires held to less than ten acres, is 98 percent. The 2005 Legislature increased initial attack funding to the Department of Natural Resources and Conservation by \$1.8 million over the biennium. The department is in the process of preparing a report regarding the return on this investment as demonstrated by the success of the initial attack program. That report will be posted to the LFD website under the December 2005 LFC meeting reports after it has been received. To date the cost of fire suppression for FY 2006 is \$6.4 million, of which \$0.7 million was covered by the governor's emergency fund and \$1.5 million is billable to the U.S. Forest Service or the Bureau of Land Management. The estimated FY 2006 state responsibility is \$4.2 million. These statistics could change based upon fire costs that may be incurred in the spring of 2006. For more information about fire suppression costs or initial attack appropriations, contact Barbara Smith at basmith@mt.gov or (406) 444-5347.

RIT subcommittee held first meeting in October...The Resource Indemnity Trust subcommittee of the Legislative Finance Committee was established to complete the requirements of HJR 36. HJR 36 requests a review of the statutes, revenues and expenditures of trust interest and the Resource Indemnity Groundwater Assessment. Eleven state special revenue funds receive interest from the fund or tax revenue, or both, creating a complex funding situation. There are issues with fund utilization for activities not covered in statute and funds subsidizing other funds. The subcommittee will catalog the issues and provide recommendations for resolution to the full Legislative Finance Committee. The subcommittee includes Reps. Rick Ripley, chairman, and Rosie Buzzas and Sens.

Rick Laible and Don Ryan. For more information, contact Barbara Smith, subcommittee staff, at basmith@mt.gov or (406) 444-5347.

Interim study of building program funding...Staff presented an informational report on the status of the Long-Range Building Program "cash" program funding and projections of the program's ability to meet the recommended level of major maintenance in the future given the current funding regime. This study was funded in HB 5. The LRBP cash program is seriously under-funded and future revenue is expected to continue to decline. At this time, the LRBP cash program is funded at only 20 percent of the recommended funding level. Consequently, the state continues to accumulate deferred maintenance, even though the 2005 Legislature provided a one-time \$30 million general fund infusion for maintenance. If the ongoing LRBP funding is not brought up to a workable level, the \$143 million deferred maintenance backlog will continue to grow. The LFC chairman appointed a subcommittee to consider funding options for maintenance of state facilities, with options to be developed by the March 2006 LFC meeting and final recommendations for the Legislature by the June meeting. The members are Reps. Ray Hawk and Gary Branae and Sens. Mike Cooney and Rick Liabe. For more information, contact Cathy Duncan at cduncan@mt.gov or at (406) 444-4580.

Upcoming Meetings...The next meeting of the LFC is tentatively scheduled for Dec. 8 and 9. The RIT subcommittee is tentatively scheduled to meet Dec. 7. If a special session is underway at that time, the meeting dates will change.

CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES COMMITTEE

Study of child protective services...On Oct. 20, the Children, Families, Health and Human Services Interim Committee heard panel discussions on the child protective services system in the areas of intake, placement, courts, and permanency and safety. The committee requested additional information on prevention; formal complaint processes; laws on adoption and confidentiality; social worker training, pay, and workload of Department of Public Health and Human Services employees; child and family courts; early use of mediation or family group decision making; and training, pay, and support for foster and adoptive parents.

Study of mental health crisis response...On Oct. 21, the committee concentrated on the SJR 41 study of mental health crisis response services. The committee heard from representatives of the Yellowstone County Community Crisis Center, including Deaconess Billings Clinic, St. Vincent Healthcare, the South Central Regional Mental Health center, and the Yellowstone City-County Health Department,

and testimony from the Rimrock Foundation. Representatives from the eastern, western, and central mental health service area authorities provided information about their proposals, progress, their work in collaborating with the DPHHS Addictive and Mental Disorders Division, their desire to stay the course and provide information from consumers, providers, and advocates from the regions on development of crisis response services.

The committee was intrigued by the ideas and requested additional research on the costs and potential cost shift involved in providing crisis response services and the type of assessments being proposed, an update on the PACT programs and children's mental health, thoughts and ideas from the governor's office, MACo, the Mental Health Ombudsman and the Board of Visitors on crisis response services and incentives to communities, and the fiscal impact of the SAA proposals for crisis services.

Training opportunity planned for December ... The committee endorsed participating in training on Helping Low-Income Families Succeed in conjunction with National Conference of State Legislatures. The committee plans to have training on Dec. 7 so that the Legislative Finance Committee, which is meeting the next day, and the Economic Affairs Interim Committee can participate.

Next meeting in January... The committee will meet again on Jan. 26 and 27 in Helena.

Ways to Participate... Anyone wishing to participate is invited to contact Susan Byorth Fox at (406) 444-3597. Persons wishing to be on the interested persons list may subscribe for electronic notices at the committee website or contact Fong Hom at (406) 444-0502 to be placed on the hard copy mailing list.

MONTANA LEGISLATIVE REFERENCE CENTER

10 things I bet you didn't know about your Legislative Library... If you are in the Capitol building, there is a gold mine of resources available to you right under your feet. I'm talking about the Legislative Library, in the east end of the basement. Never been to the Legislative Library? Let me tell you...you don't know what you've been missing.

Subject files: Since before the 1990s, the legislative librarian has kept articles of interest to Montana legislators from magazines, databases, classes, NCSL, the Internet, etc., and they are filed alphabetically by topic. Need to know about the energy situation in Montana in 1995? The financial condition of Montana schools in 1998? What were the big issues for the 2001 Montana Legislature? We can look it up for you.

Newspaper clips: We subscribe to a clipping service, and articles of interest from Montana newspaper are

on a searchable database. Searches can be made by date, newspaper, topic, etc. Our newspaper coverage goes back to the early 1990s.

Journal articles: We index the popular journals we get such as *State Legislatures*, *State Tax Notes*, *The Interim*, etc. Many articles are on a database which is searchable by topic.

Posters: Need a big poster to grandly illustrate your point? Give us a holler. We can design it, print it, and put it on foam board.

Scanner: We just scanned the 1889 Montana Constitution and placed it online on our webpage (http://www.leg.state.mt.us/css/mtcode_const/default.asp.) We receive frequent requests for the original Constitution and it wasn't available electronically anywhere. Thanks to our scanner, it is now. The Enabling Act and The Organic Act are also on the webpage. We get questions on those too. If you need something scanned, make your way down to the Legislative Library. We'd be happy to do it for you.

Legislative rules: Not only do we have copies of current and past Montana legislative rules, we have ample copies of *Mason's Manual*. For those wanting a more in-depth understanding of Montana legislative rules, we have put together a book consisting of staff presentations and articles on the topic. Good stuff.

Digital camera: We're happy to take photos. Remember the new legislators' group photo from orientation? Or the Guide to the House that came out during session? We took those photos. And we'd be happy to take yours and send it to you. Just contact Lisa.

Legal resource searches: We have access to WestLaw, Lexis, and some other legal databases. Your librarian is also an attorney and legal research is her favorite thing. So give her a call if you need anything along those lines.

Connections with other libraries at the state and national levels: If you've heard of a report done by another state legislature, and you really want to see it, we can get you a copy quicker than most anybody can. Law reviews or statutes from another state? Just a phone call away.

Old bills: If you want 'em, we got 'em. It's as simple as giving us a call.

All this and so much more... So, did you learn anything about your Legislative Library that you didn't already know? We hope so. The gold mine in the Capitol basement will be waiting for your call. Lisa "The Nugget" Mecklenberg Jackson, legislative librarian, Ljackson@mt.gov or (406) 444-2957.

THE BACK PAGE

EVERYTHING OLD IS NEW AGAIN: MONTANA'S MAIN STREET PROGRAM

By Leanne Kurtz
Legislative Research Analyst

*When you're alone
And life is making you lonely,
You can always go downtown.
When you've got worries,
All the noise and the hurry
Seems to help, I know, downtown.
Just listen to the music of the traffic in the city
Linger on the sidewalk where the neon signs are pretty
How can you lose?
The lights are much brighter there
You can forget all your troubles, forget all your cares and go
Downtown, things'll be great when you're
Downtown, no finer place for sure,
Downtown, everything's waiting for you.*

British songwriter Tony Hatch penned the lyrics to the hit song "Downtown"--made famous by Petula Clark--in 1964 after his first visit to New York City. It evokes images of Times Square, yellow taxis, and crowds of stylishly-dressed city folk rushing off to sip martinis in dark smoky lounges. New York City is a far cry from downtown Scobey or Main Street Absarokee (and the people who live there no doubt like it that way), but a new program authorized by the 2005 Legislature and housed in the Montana Department of Commerce aims to help Scobey, Absarokee, and other communities turn their downtown areas and commercial districts into vibrant, interesting places. It's called the Montana Main Street Program and at its heart is the marriage of economic development and historic preservation. If similar programs across the country are any indication, the Montana Main Street Program carries great potential to spur local economic development one historic building, one commercial district at a time.

House Bill No. 481 (Ch. 181, L. 2005) sailed fairly smoothly through the legislative process. Neither the House nor Senate committee in which the bill was heard saw any opponents and the bill received support from the Montana Preservation Alliance, the Montana League of Cities and Towns, the Historical Society, a number of local economic development organizations, and the Governor's Office. A similar bill had stalled in both the 1999 and 2001 sessions. The text of HB 481 expresses the intent of a Montana Main Street program.

The purpose of the program is to:

- (a) assist communities in restoring and retaining the historic character of their downtown areas and historic commercial districts;
- (b) stimulate business investment, assist in retaining existing small businesses, and promote

- new businesses in those areas;
- (c) strengthen the local tax base;
- (d) create employment opportunities in community downtown areas and historic districts; and
- (e) generally enhance the economic viability of downtown areas and historic districts.

The bill also provided that the program would be located in the Department of Commerce and that it be operated in conjunction with the National Trust for Historic Preservation (NTHP). What the bill did not provide was funding, but a line item in HB 2 took care of that necessary detail. The Department of Commerce's Business Resources Division received an appropriation from the state special revenue fund of \$125,000 each year of the biennium to operate the program. Like many new programs that receive state funding, Main Street is being treated as a pilot project. The 2007 Legislature will be in a position to decide whether the project has shown enough promise to warrant continued funding and will base its decision on the experience of two Montana communities, yet to be chosen, that receive the intensive technical assistance, training and support that come with designation as a local Main Street program. State support, however, does not translate into direct funding from the state to communities, and through the competitive application process, communities must show that they have the initiative and wherewithal to make effective use of the services they will receive from the state office and from the NTHP.

Chartered by Congress in 1949, the NTHP's mission statement reads:

The National Trust for Historic Preservation is a privately funded non-profit organization that provides leadership, education, advocacy, and resources to save America's diverse historic places and revitalize our communities.

The NTHP is headquartered in Washington D.C., has an annual budget of \$40 million, employs a staff of more than 300, and is organized into numerous programs, all aimed at preserving the places that "tell America's story".

One of NTHP's programs, the National Main Street Center, got its start in the late 1970s in response to what NTHP saw as an alarming decline in economically viable downtown areas and increasing threats to the traditional commercial architecture in those dying downtowns. NTHP initiated a three-year study of the causes of commercial district decline and to develop approaches to resurrecting these areas and the priceless resources located in them. The National Trust chose three demonstration communities: Galesburg, Ill., Madison, Ind., and Hot Springs, S.D. in which to conduct the study. When all was said and done, the NTHP had identified the components necessary for commercial district revitalization: a strong public-private partnership; a dedicated organization; a full-time program manager; a commitment to good design; quality promotional programs; and a

coordinated, incremental process. The NTHP reports that:

[b]y almost any standard of measurement, business improved in all three downtowns during the Main Street Project. Seven new businesses opened in Hot Springs, six in Madison, and 30 in Galesburg. Sales tax revenues increased by 25 percent in Hot Springs, while the downtown occupancy rate in Galesburg rose to 95 percent. Moreover, for every dollar spent on managing the local Main Street project, \$11 was invested by private businesses in rehabilitation and adaptive-use projects. Most importantly, scores of buildings were rehabilitated and put back into productive use, preserving important symbols of each community's unique heritage for future generations.

Statistics provided by the National Trust show that over the last 20 years, commercial district participation in the Main Street program has resulted in more than \$17 billion in new investment and creation of over 231,000 new jobs and 57,000 new businesses. Communities see an average investment of more than \$9 million with a return of \$40 for every \$1 the community spends on its local program.

Dollars and numbers aside, the NTHP also addresses a couple of obvious questions the practical observer may ask: Why preserve moldy old buildings and why revitalize moldy old commercial districts? Preservation of historic buildings is not just about aesthetics, although a rehabilitated building with distinct and significant architectural features can be a thing of beauty. The NTHP contends that preservation makes good financial sense--often it is cheaper to shore up a property and re-use it than to raze it and start over, not to mention the fact that communities with historic buildings and historic districts attract tourists eager for a glimpse into the past. A community's downtown or traditional commercial district "is the most visible indicator of community pride," NTHP asserts, "along with its economic and social health. It is either an asset or a liability in the effort to recruit new residents, new businesses and industries, retirees, tourists, and others to your community" and to keep those already living in the community from seeking greener pastures. "Quality of life is what separates successful cities and towns from declining communities in the new millennium." Cities and towns in Montana run the gamut from wildly successful to near-dead (and even dead-dead, as the spectral denizens of Garnet or Elkhorn ghost towns will attest). In the next year and a half, the Montana Main Street program staff and supporters hope to breathe some life into cities and towns across the state whose citizens have not had many options other than to stand by and watch their commercial districts dry up and blow away.

It's a tall order for the Montana Main Street program's staff of one at the Department of Commerce's Business Resources Division. Angela Wong, the program coordinator, was hired early this summer and has been busy developing the state's program since. Communities that are chosen to

participate in Montana's program, after a thorough application and screening process, will receive two-years' worth of intensive on-site technical assistance and training. Montana's program will implement the NTHP's trademarked Four-Point Approach in the chosen communities. The components of this approach are organization, design, promotion, and economic restructuring.

Organization requires building consensus and cooperation among a broad cross-section of community representatives, business property owners, city officials, and representatives of schools, libraries, churches and other public entities. The emphasis is on attracting the human (mostly volunteer) and financial resources needed to keep the local program on track and viable.

Design, according to materials prepared by Ms. Wong, "takes advantage of the visual opportunities inherent in a traditional commercial district by directing attention to all of its physical elements," including buildings, storefronts, signs, landscaping, and public spaces. The design component focuses on the importance of design quality and on educating the public about the value of historic preservation and historically appropriate improvements.

Promotion is intended to "create a positive image of the commercial district in order to rekindle community pride." In addition, this component's focus is developing and improving retail sales events and festivals that bring the public downtown and that attract investment and new business.

Economic restructuring involves analyzing the commercial district's current and potential market, determining who makes up the customer base and how that base may be diversified, identifying and recruiting the type of business the market will support, and identifying ways (such as low-interest loans and grants) to finance property development and to make use of vacant lots and buildings.

Typically, a community that participates in a Main Street program organizes itself into committees that concentrate on each of the four points in this approach.

Once the two Montana towns are chosen, they can expect a range of services, coordinated through the state office. The state office will work with the communities to establish their organizational structure, hire staff, and publicize the program. Other services will include training in the four-point approach and in Main Street program management, developing short-term and long-term work plans, facilitating community-wide visioning to determine how residents view the future of their commercial districts and to allow residents to describe what they want those areas to look like. The state office will assemble an interdisciplinary consultant team, the members of which will assist the local programs with specific architectural, planning, marketing, structural rehabilitation, and other challenges that arise. While one of the tenets of the Main Street program is that revitalization must be incremental in nature, it remains results-oriented and an

annual evaluation will help communities determine if they are heading in the right direction.

While the intensive on-site training and assistance is intended for the two pilot communities chosen to participate in Montana's Main Street program, the office's technical assistance, advice, and referral services are available to any community in the state with an interest in bringing commerce back into their historic commercial districts.

Historic preservation does not have to mean saving old buildings at the expense of a vital economy. Economic development does not always have to occur in shiny new office parks or malls or discount shopping meccas. The

NTHP and its Main Street Center have shown that economic development and historic preservation can be a match made in heaven. Montana's cities and towns are rich in unique historic properties and fascinating stories about how they came to be. Montana's Main Street program may be all some of them need to bring the dollars and the people to those places to see and work in and among the properties and hear the stories--inching them ever so slightly toward the best of Tony Hatch's New York City, circa 1964.

Downtown, everything's waiting for you.



INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED, ALL ROOM DESIGNATIONS ARE IN THE CAPITOL

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
November 2005						
		1	2	3	4 Legislative Audit Committee, Room 152, 8 a.m. State Administration and Veterans' Affairs Committee, Room 102	5
6	7	8	9	10	11	12
13	14	15 State-Tribal Relations Committee, Ft Peck Indian Reservation	16 State-Tribal Relations Committee, Ft Peck Indian Reservation HJR 10 fire- suppression study work group	17 Law and Justice Committee, Room 102	18	19
20	21 Energy and Telecommunications Committee public forum on distributed energy generation	22 Energy and Telecommunications Committee	23	24	25	26
27	28 State Administration and Veterans' Affairs Committee, Room 102	29	30			

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
December 2005						
				1 Revenue and Transportation Com- mittee, Room 137 Local Government subcommittee Postsecondary Education Policy and Budget subcom.	2 Revenue and Transportation Com- mittee, Room 137 Education and Local Government Com- mittee	3
4	5	6	7 LFC Resource Indemnity Trust subcommittee	8 Legislative Finance Committee	9 Legislative Finance Committee	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

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